



POLICE DEPARTMENT

January 2, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Thomas Walsh
Tax Registry No. 916884
34 Precinct
Disciplinary Case No. 2011-5642

The above-named member of the Department appeared before Assistant Deputy Commissioner – Trials Claudia Daniels-DePeyster,¹ on October 28, 2013, charged with the following:

1. Said Police Officer Thomas Walsh, while assigned to the 34th Precinct, on or about and between February 2, 2010 and August 2, 2011, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer on multiple occasions assisted and/or requested the assistance of other members of service to prevent the adjudication of numerous summonses issued to various individuals.

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT

The Department was represented by Vivian Joo, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq.

Respondent, through his counsel, entered a plea of Not Guilty.² A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

¹ Due to ADCT Daniels-DePeyster's long-term absence, this Report and Recommendation is submitted by Deputy Commissioner – Trials Martin G. Karopkin.

² Respondent did not contest the charge with respect to one date, April 9, 2010; however, he did contest the charge with respect to a) the four summonses at the crux of the March 18, 2010 incident, and b) any admissions he made during his official Department interview with respect to any summonses he took care

DECISION

Respondent is found Guilty as charged.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

No witnesses testified on behalf of the Department and in its stead, the Department presented into evidence, with Respondent's consent, a compact disc of wiretap conversations (Department's Exhibit (DX) 1), transcripts of the wiretap conversations relating to the incident of March 18, 2010³ (DX 1A), transcripts of the wiretap conversations relating to the incident on April 9, 2010 (DX 1B), a tape recording of Respondent's official Department interview (DX 2), and a transcript of Respondent's official Department interview (DX 2A).

With respect to the incident of March 18, 2010, a review of DX 1 and DX 1A shows that on March 18, 2010, at about 9:18 a.m., Police Officer Luis Rodriguez of the 40 Precinct, who is a Patrolmen's Benevolent Association (PBA) delegate, called Respondent. Rodriguez asked him to speak with Police Officer Monzon, assigned to the 34 Precinct Conditions Unit, regarding summonses that she had issued on March 16, 2010, at about 5:19 p.m., to street vendors Person A and Person B. Rodriguez was furious that Monzon had issued the summonses because apparently another officer from the 40 Precinct was present at the scene and had told Monzon "these

of on behalf of another delegate and any summonses he requested other delegates to take care of on his behalf, in that Respondent alleged those summonses are outside the purview of this Court as being barred by the statute of limitations.

³ The summonses in question were issued by Police Officer Leiddy Monzon on March 16, 2010, and the wiretap conversations relating to the Monzon summonses were recorded on March 18, 2010, March 20, 2010 and March 22, 2010. Because throughout the trial, the incident with the Monzon summonses is referred to as the March 18, 2010 incident, for consistency, this Report and Recommendation shall also refer to the Monzon summonses as the March 18, 2010 incident.

are my friends can you give them a break.” Monzon had declined to do so and Rodriguez was extremely upset that Monzon had issued the summonses “over another shield.”

Rodriguez asked Respondent to speak with Monzon and Respondent said that he would do so. Rodriguez then gave Respondent the names of the vendors who were issued the summonses so that “maybe you [Respondent] can pull them out, all right,” to which Respondent replied, “[A]ll right” Respondent took the names of each vendor, asking for and receiving the correct spelling of their names.

DX 1A further shows that on March 20, 2010, at about 12:27 p.m., Rodriguez called Respondent to inquire about the status of the summonses issued to the street vendors by Monzon. Respondent said that he had been unable to speak with Monzon, who had in any event already turned in the summonses. Respondent then told Rodriguez to call “in the two four down in the Boro Vic you know Vic.” Respondent continued, “Oh because Vic down in the Boro I know he’s done it in the past ah where he can intercept them he can sometimes any way cause they go down to the Boro first and sometimes he can go into the (inaudible).” Rodriguez said that because he did not know Vic, he was not comfortable speaking with Vic and asked Respondent “to give him a call for me cause you know,” to which Respondent replied, “all right I’ll give him a call” Then Respondent said, “[O]k I’ll call Vic and I’ll give him your number and I’ll ask him to call.” Respondent reassured Rodriguez that “Vic is a good guy.” Respondent said that he would get Monzon’s telephone number to give to Rodriguez.

DX 1A additionally shows that on March 22, 2010, at about 1:42 p.m., Rodriguez spoke with Monzon about the March 18 incident relating to the summonses she issued to the street vendors. Rodriguez told Monzon that Respondent had given him her number.

DX 1 and DX 1B relate to the summons incident of April 9, 2010, which Respondent does not contest. On April 9, 2010, at about 4:31 p.m., Rodriguez called Respondent about a C-summons issued by an officer from the 34 Precinct to a family member of an officer from the 40 Precinct for reckless driving. Rodriguez gave Respondent the summons number, C-432556487-1, and the name of the family member, Person C, to whom the summons was issued. Respondent said he would call and see if he "can get a hold of the" issuing officer. About half an hour later, Respondent spoke with Rodriguez and told him "[O]kay it's taken care of ..." Respondent said that the issuing officer did not hand in the summons.

In his official Department interview, DX 2 and DX 2A, on August 3, 2011, Respondent, a PBA delegate, made the following admissions. When asked, "Have you ever been asked to take care of a summons," he admitted, "[Y]es" and said the time frame was "probably ... maybe slightly less than a year" ago. He admitted that he had received more than four phone calls "probably about six to eight months and around and then maybe up to about a year ago" to take care of summonses. He honored those requests by reaching out to the issuing officers, telling them that they wrote summonses for family members of police officers. After reaching out, Respondent admitted that he received confirmations from the issuing officers, sometimes by text messages, that "[T]hings are okay," or "[I]t's good," meaning that the summonses were taken care of. Respondent made the following additional admissions:

Lieutenant Fabregas: - - I know the officers would approach you as a delegate and request summons issued to their relatives and friends, how many of those calls would say went out from you to other delegates in the last year, yeah and a half?

Respondent: The last year, year and a half, maybe, again maybe like I don't know a couple of times - -.

Finally, with respect to the Monzon summonses, when he was told during his official Department interview that those summonses “were not found,” Respondent said he did not know what happened to them.

Respondent’s Case

Respondent testified in his own behalf.

Respondent

Respondent, a member of the Department for over 18 years, intends to retire in January, 2014, as he has “bought back” military time towards his pension to reach the equivalent of 20 years of service. Respondent has been assigned to the 34 Precinct for 18 years, where he is on patrol, and for the past six years, he has also been a PBA delegate.

Respondent recalled that on March 18, 2010, Rodriguez called him and asked him to speak with Monzon, who had issued four summonses to street vendors, who were relatives of an officer in the 40 Precinct and who had “displayed like a PBA card and a shield that was given to them by their son.” According to Rodriguez, Monzon had “ignored everything” and issued the summonses.

Sometime after his conversation with Rodriguez, Respondent spoke to Monzon and asked if she had issued summonses to family members of a police officer. Respondent told Monzon about his conversation with Rodriguez. Monzon told him, “Absolutely not. She says there was – none of that happened, she informed me that none of that went on.” Instead, Monzon told Respondent that she issued summonses to the vendors because they did not have the proper licenses for the goods that they were

selling. Monzon told Respondent that she placed the summonses in the summons box "right away. She said they're gone, I put them in the box"

Respondent testified that the summons box is a locked box that is located in close proximity to the desk officer and completed summonses are placed in the box by the issuing officer. Respondent denied personally removing the four summonses from the box or directing anyone else to remove the summonses from the box. After being told that the summonses had already been placed in the box, Respondent told Monzon that Rodriguez would not be happy. Respondent gave Monzon's phone number to Rodriguez and claimed that he did not have anything further to do with the four summonses issued by Monzon to the vendors.

On April 9, 2010, Respondent received a call from Rodriguez that concerned a summons issued for reckless driving. Respondent was able to identify the officer who issued the reckless driving summons by his tax number. Respondent approached the issuing officer who said that he was going to take care of the summons. The issuing officer also asked Respondent to make Rodriguez aware that the motorist was "...totally inappropriate and was driving like an idiot, basically." Respondent admitted that the reckless driving summons was in fact taken care of because of his involvement.

During his official Department interview, Respondent was asked if, during the last year, he either requested others or had been requested by others to take care of any additional summonses, other than the summonses issued on the two dates already discussed. Respondent could not recall specific names of any officers who made the requests to him, and he could not recall specific dates on which the requests were made. During his official Department interview, other than March 18, 2010, and April 9, 2010,

no other dates were brought to his attention. Respondent denied having any involvement at all in interfering with the proper adjudication of the four summonses issued by Monzon to the vendors in March, 2010.

On cross-examination, Respondent testified that his understanding of taking care of a summons was the equivalent of a member of the service using discretion.

Usually you would ask if it's - - if somebody - if it was done by - - officers back then would write a summons and if they felt that - - if they were informed that it was a family's mother or brother, or father, they would maybe hold [the summons] for a tour or something like that. And then if they were ever contacted, then they wouldn't put it in the box. But if they - - I mean if they were contacted, they didn't put it in the box; and if they weren't, they put it in the box.

Respondent testified that his way of taking care of a summons was to approach the issuing officer and request that the issuing officer not place the summons in the summons box. Because the summons box was locked and he did not have access to it with a key, he did not recall ever pulling a summons from the box, which was not how Respondent would advise a police officer to handle the situation.

Respondent agreed that during his official Department interview, he defined "throwing" a case in court for a processed summons to mean that the issuing officer provided testimony in court in a manner that affected the outcome of the case, i.e., a finding of not guilty.

Respondent acknowledged that during his official Department interview, he admitted that within the previous "year, maybe a little less," he was asked to take care of summonses. Respondent acknowledged that in his official Department interview, he admitted that he received "a couple of calls" from a Bronx delegate, other than

Rodriguez, regarding taking care of summonses. Respondent admitted that upon receiving the phone calls from the delegate, he approached the issuing officers and asked them to use discretion and not hand in the summonses. Respondent admitted that he received confirmation from the issuing officers, that the summonses had been taken care of, via phone or a text message that "Things are okay," or "It's good," which meant that the summons was "gone" or "the officer decided to not put it in the box" after speaking with Respondent.

Respondent acknowledged that during his official Department interview, he admitted that he, as a delegate, had called other delegates a couple of times within the "last year and a half" to ask that they take care of summonses for him.

Respondent testified that usually issues with summonses were handled through delegates. With respect to the March 18, 2010 incident, Rodriguez, a delegate, called Respondent, a delegate, so that Respondent would take care of the summonses issued to the vendors by Monzon. After speaking with Rodriguez, Respondent spoke with Monzon because he was curious and he wanted to find out if the story Rodriguez had recounted to him was correct. Respondent testified that he asked Monzon,

if she did indeed write these summonses and was she informed - - was there a police officer standing there who indicated to her what he had told me what took place, and she said none of that took place. So I said, "Oh, okay." I said, "Okay, what did you do with them?" She said, "I put them in. I put them in the box," and I said, "Okay."

After learning from Monzon that the summonses were turned in, Respondent told Rodriguez to contact a person named Vic at the patrol borough to see if there was some "alternative." Respondent claimed that he never had any dealings with Vic, whose last name he did not know, with respect to this matter. Respondent acknowledged that he

gave Rodriguez the information about Vic because he knew that Vic could intercept the summonses and possibly make them go away.

With respect to the April 9, 2010 incident, Respondent admitted that he helped take care of the reckless driving summons by speaking with the issuing officer, Police Officer Quirk, with the purpose of asking Quirk to use his discretion to take care of the summons. Respondent admitted that after speaking with him, Quirk did in fact take care of the summons as requested. Quirk retired prior to Respondent's official Department interview.

On re-direct examination, Respondent testified that he did not contact Vic to help Rodriguez with respect to the March 18, 2010 incident.

FINDINGS AND ANALYSIS

The crucial issue here is, within the statutory period of 18 months before being served with Specification No. 1, did Respondent help fix one summons on one date, April 9, 2010, as he admitted, or did he help fix and/or ask to have fixed five summonses on more than one date, as the Department argued at trial. The issue is important because it bears heavily on the penalty to be imposed.

In determining how many summonses Respondent helped fix and/or asked to have fixed within the statutory period of 18 months, Respondent's own admissions, in the wiretap conversations, in his official Department interview, and at trial prove to be critical. His admissions show by a preponderance of the evidence that he helped fix and/or asked to have fixed multiple summonses on more than one date.

Respondent, a PBA delegate, admitted, both in his official Department interview and at trial, that on April 9, 2010, he helped take care of a summons, issued by Quirk to a relative of a member of the service for reckless driving, at the behest of Rodriguez, another PBA delegate. Based on his own admissions, Respondent is Guilty of helping to fix a summons on April 9, 2010.

Moreover, the transcripts of the wiretap conversations (DX 1A) and Respondent's admissions at trial show that Respondent "assisted and/or requested the assistance of other members of service to prevent the adjudication" of the Monzon summonses, which is the March 18, 2010 incident. When Rodriguez called Respondent on March 18, 2010, Rodriguez was furious with Monzon for issuing summonses to unlicensed vendors who were friends of a member of the service and despite being asked by another officer to give the vendors "a break" (DX 1A). Rodriguez spelled out for Respondent the names of the vendors, Person A and Person B, so that Respondent could "pull them [the summonses] out, all right," to which Respondent replied, "[A]ll right ..." (DX 1A).

Instead of declining to help, Respondent agreed, in the wiretap conversations, to pull the Monzon summonses for Rodriguez, which would have prevented the adjudication of the summonses as they would have disappeared. In his official Department interview and at trial, Respondent denied actually pulling the summonses because the summonses were in a locked box on the front desk of the command and he did not have access to the key. When told in his official Department interview that the Monzon summonses were not found, Respondent said that he did not know what happened to them. It does not matter that Respondent did not know what happened with the Monzon summonses because he is not charged with fixing them; he is charged with

assisting other members of the service in preventing the adjudication of them, which the totality of his actions show he did.

For example, in the wiretap conversation of March 20, 2010 (DX 1A), Respondent told Rodriguez that Monzon had already turned in the summonses but Respondent had an "alternative" solution for Rodriguez. Respondent told Rodriguez to call Vic at the patrol borough because Respondent knew Vic, "a good guy" who could "intercept" the summonses "cause they go down to the Boro first" and as "he's done it in the past" (DX 1A). Rodriguez told Respondent that because he did not know Vic personally, he was not comfortable speaking with him and asked Respondent to call Vic for him, to which Respondent agreed (DX 1A). Respondent said that he would call Vic, give Rodriguez's number to Vic, and ask Vic to call Rodriguez (DX 1A). Finally, Respondent gave Monzon's telephone number to Rodriguez, and Rodriguez spoke with Monzon on March 22, 2010 (DX 1A). Based on all of the foregoing, Respondent is Guilty of assisting Rodriguez in preventing the adjudication of the Monzon summonses.

Finally, Respondent acknowledged at trial that he admitted in his official Department interview that within the previous "year, maybe a little less" than a year, he had taken care of summonses for a Bronx delegate, other than Rodriguez, and that within the "last year and a half," he had called delegates a couple of times asking that they take care of summonses for him. Respondent admitted that taking care of a summons meant that the summons was "gone." Respondent admitted that his manner of taking care of a summons was to approach the issuing officer and request that the issuing officer not place the summons in the summons box. Respondent admitted that he had received more than four phone calls "probably about six to eight months and around and then maybe up to

about a year ago” to take care of summonses, and he honored those requests by reaching out to the issuing officers, telling them that they wrote summonses for family members of police officers. After reaching out, Respondent admitted that he received confirmations from the issuing officers, sometimes by text messages, that “[T]hings are okay,” or “[I]t’s good,” meaning that the summonses were taken care of. Respondent, a delegate, admitted that usually delegates handled the issue of taking care of summonses for members of the service. Based on all of his own admissions, Respondent is Guilty of fixing and asking to have fixed multiple summonses on more than one date within the statutory 18-month period.

I find Respondent Guilty of Specification No. 1.

PENALTY

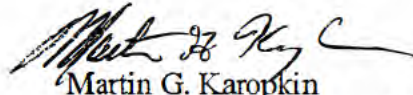
In order to determine an appropriate penalty, Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974).

Respondent was appointed to the Department on June 30, 1995. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has recommended a penalty that is consistent with numerous other similar cases that have been adjudicated in this forum and approved by the Police Commissioner and that reflects the serious nature of the misconduct. Consequently, this Court recommends that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the

force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings. In addition, Respondent should forfeit five (5) suspension days to be served and twenty-five (25) vacation days.

Respectfully submitted,



Martin G. Karopkin
Deputy Commissioner Trials

APPROVED

FEB 18 2008

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER THOMAS WALSH
TAX REGISTRY NO. 916884
DISCIPLINARY CASE NO. 2011-5642

In 2012, Respondent received an overall rating of 3.5 "Highly Competent/Competent" on his annual performance evaluation. He was rated 4.0 "Highly Competent" in 2010 and 3.0 "Competent" in 2011. He has been awarded two medals for Excellent Police Duty [REDACTED]

[REDACTED]. Respondent has no prior formal disciplinary record.

For your consideration.


Martin G. Karepkin
Deputy Commissioner Trials